



**Kenya Union of Domestic Hotels Educational Institutions and Hospital Workers (KUDHEIHA) v
Kombanira & another (Cause E023 of 2025) [2025] KEELRC 1849 (KLR) (26 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1849 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE E023 OF 2025**

**M MBARŪ, J
JUNE 26, 2025**

BETWEEN

**KENYA UNION OF DOMESTIC HOTELS EDUCATIONAL INSTITUTIONS
AND HOSPITAL WORKERS (KUDHEIHA) CLAIMANT**

AND

PETER GITAHI KOMBANIRA 1ST RESPONDENT

BEAKIM COMPANY LIMITED 2ND RESPONDENT

RULING

1. The ruling herein relates to a Notice of Preliminary Objections filed by the respondents, Beakin Company Limited and Peter Gitahi Kombanira, dated 21 April 2025. The respondents' objections are that:
 1. That although the Employment and Labour Relations Court is vested with jurisdiction to hear and determine employment disputes, the Claimant's monthly salary of Kshs. 15,000/= places this matter within the pecuniary jurisdiction of the Chief Magistrate's Court by virtue of [Legal Notice No. 6024 of 2018](#), which conferred jurisdiction upon Magistrates' Courts to hear and determine employment disputes where the gross monthly salary does not exceed Kshs. 80,000/= . Consequently, the suit is bad in law. It offends the mandatory provisions of Section 11 of the [Civil Procedure Act](#), Cap 21 Laws of Kenya, which provides that every suit shall be instituted in the court of the lowest grade competent to try it.
 2. That this Honourable Court lacks territorial jurisdiction to entertain the suit as the Respondents reside and/or carry on business in Ukunda within Kwale County, where the Claimant was employed and worked for the 1st Respondent. Accordingly, the proper forum for this dispute lies within Kwale.



3. That in view of the foregoing, the suit ought to have been filed at the Chief Magistrate’s Court at Kwale, being the court of competent pecuniary and territorial jurisdiction.
4. That the entire suit is incompetent, bad in law and an abuse of court process and should be struck out and or dismissed with costs.
2. On the objections, both parties attended and agreed to address the same by way of written submissions.
3. As the applicants, the respondents submitted that it is undisputed that the Claimant earned a gross monthly salary of Kshs. 15,000. This places the matter within the jurisdiction of the Magistrates’ Courts as provided under Gazette Notice No. 6024 of 2018. Issued under Section 29(3) and (4)(b) of the *Employment and Labour Relations Court Act*, the Notice designates Magistrates of the rank of Senior Resident Magistrate and above as Special Magistrates empowered to hear and determine employment disputes arising from employment contracts where the employee’s gross monthly salary does not exceed Kshs. 80,000.
4. The dispute or issues in this case involve one person, the grievant, against the employer, the Respondents. The dispute herein does not constitute a trade dispute under the *Labour Relations Act*, as held in *Kenya Plantation & Agricultural Workers Union v Primarosa Flowers Ltd* [2023] KEELRC .
5. The respondents submitted that there is no territorial Jurisdiction. The Respondents operate and reside in Ukunda, Kwale County, where the Claimant allegedly was employed and worked. Under Section 11 of the *Civil Procedure Act*, a suit should be filed in the court within the local limits of whose jurisdiction the Defendant resides or the cause of action arose. Therefore, Kwale is the appropriate territorial forum, and the present suit offends this statutory requirement. Section 15 of the *Civil Procedure Act*, outlines the proper court for the institution of suits. In *Mukiira v Mwirabua* [2022] KEHC the High Court transferred a matter from itself to the Principal Magistrate’s Court at Tigania, observing that the cause of action arose in Tigania and that most of the witnesses resided there. The court emphasized that under Section 11 and Section 15 of the *Civil Procedure Act*, the correct forum is determined by the location of the Defendant(s) and where the cause of action arose, not the convenience of the Plaintiff. The Court further held that Plaintiffs cannot forum shop by filing suits at locations where they reside unless that forum also meets the legal requirements of territorial jurisdiction.
6. The suit is improperly before this Court. The Chief Magistrate’s Court at Kwale is the appropriate forum, with pecuniary and territorial jurisdiction. Therefore, filing this suit in the Employment and Labour Relations Court at Mombasa was procedurally irregular and contrary to the law.
7. The claimant submitted that the suit arises from a contract of employment between the grievant, who was at all material times a member of a trade union, and the Respondent, the employer.
8. Before the claim was filed, the dispute resolution procedures were duly and diligently followed, with the Union reporting the matter to the Cabinet Secretary for Labour under the provisions of the *Labour Relations Act* for purposes of conciliation. The original jurisdiction to hear employment and labour relations disputes is with the court under article 162(2)(a) of *the Constitution* and the *Employment and Labour Relations Court Act*, as emphasised in the case of *Muriuki & another (Suing as the legal representatives of Patrick Kibiru Muriithi) v Isinya Roses Limited* {2023}KEELRC 788 (KLR). The power given to the Chief Justice to designate special magistrates to hear employment disputes under the *Employment Act* does not override Article 162(2) (a) of *the Constitution* or the *Employment and Labour Relations Court Act*. In *Kenya Union of Commercial Food and Allied Workers v Director General/ CEO, Kenya National Library Service (Cause E129 of 2024)* [2025] KEELRC , the court held that



the issues subject of the claim were placed before a conciliator and had gone through conciliation as a Trade Dispute under the [Labour Relations Act](#).

9. The union lodged the suit herein on behalf of a member, which in every sense, shows that the claim is a trade dispute and not ordinary, as it is affected by the Kshs.80,000 salary limit. The suit has been instituted adequately on territorial jurisdiction before a court vested with competent territorial jurisdiction to hear and determine the matter. 9. The application be struck out with costs to the claimant.

Determination

10. The main issue in the respondents' objections is the application of [Legal Notice No. 6024 of 2018](#), which conferred jurisdiction upon Magistrates' Courts to hear and determine employment disputes where the gross monthly salary does not exceed Kshs. 80,000. The respondents admit that the grievant was an employee earning Ksh. 15,000 per month and was working in Ukunda, Kwale County.
11. The claimant has admitted that the grievant was its member. Before filing suit, a dispute had been reported to the Minister for conciliation.
12. [Legal Notice No. 6024 of 2018](#) is specific and single. It gives the magistrates' court jurisdiction to hear employment disputes where the gross monthly salary does not exceed Kshs. 80,000.
13. The same legal notice removes jurisdiction from the magistrates' court regarding labour disputes. These are disputes defined under the [Labour Relations Act](#), where trade unions are allowed to represent their members in court and the jurisdiction is removed from the subordinate court to the court. the Notice is that;

Disputes arising from contracts of employment (excluding trade disputes under the [Labour Relations Act](#), 2007) where employees' gross monthly pay does not exceed Kshs. 80,000/= as commenced and continued in accordance with the Employment and Labour Relations Court (Procedure) Rules 2016.

14. Under section 2 of the [Labour Relations Act](#), a trade dispute is defined to include:

trade dispute” means a dispute or difference, or an apprehended dispute or difference, between employers and employees, between employers and trade unions, or between an employers' organisation and employees or trade unions, concerning any employment matter, and includes disputes regarding the dismissal, suspension or redundancy of employees, allocation of work or the recognition of a trade union;
15. In *Onyango v Ken Knit Kenya Limited* [2024] KEELRC 1569 (KLR) and *Kenga Equatorial Hotels t/a Mombasa Continental Resort v Chege* [2025] KEELRC 162 (KLR), the courts have emphasized that [Legal Notice No.6024 of 2018](#) conferred jurisdiction upon the magistrates with regard to employment disputes only. The court retains original jurisdiction over all employment and labour relations disputes, including trade disputes.

The court has original jurisdiction in this case.
16. The other matter raised by the respondents is that the claimant should have filed the claim at Kwale as employment was at Ukunda, within Kwale County. This objection is linked to the question of jurisdiction.
17. However, employment and labour relations disputes are regulated under a different regime of rules of procedure, the Employment and Labour Relations (Procedure)



18. Rules, 2024 (the Court Rules). In the place of suing, unlike in commercial disputes, which are regulated under the Civil Procedure Act and the rules thereto, under the Court Rules, a claimant is allowed to sue where he resides under Rule 6. This is a game changer in employment and labour relations, it will enable an employee who is dismissed from his employment and is no longer at the shop floor or place of employment to file his claim at his current place of residence.
19. The court at Mombasa is best placed to hear the claim.
20. The respondents' objections are without merit and are hereby dismissed. The court will give hearing directions in the matter, subject to the respondents meeting the claimant's costs at Ksh. 20,000, to be paid within 14 days.

DELIVERED IN OPEN COURT THIS 26TH DAY OF JUNE 2025

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

